

SENATE BILL REPORT

HB 1939

As Reported By Senate Committee On:
Judiciary, March 21, 2007

Title: An act relating to privileged communications.

Brief Description: Modifying privileged communications provisions.

Sponsors: Representatives Goodman, Warnick, Rodne, Williams, Priest, Moeller, B. Sullivan, Cody, Chase, Pedersen, Lantz and Hinkle.

Brief History: Passed House: 2/28/07, 97-0.

Committee Activity: Judiciary: 3/21/07 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Murray and Weinstein.

Staff: Lidia Mori (786-7755)

Background: It has long been recognized that certain relationships and communications should be protected from disclosure regardless of the fact that they otherwise might be admissible in courts of law. The guiding belief is that by protecting this information, these desirable relationships will be encouraged and they are worth protection at the expense of the truth seeking goal of the courts. All 50 states have some form of recognized statutory privilege for clergy-penitent communications. In addition, in Washington, with certain exceptions, a husband can not be examined for or against a wife, nor a wife for or against her husband, without their respective consent. An attorney or counselor is not to be examined as to any communication made by his or her client, without the consent of the client. This privilege against examination extends to the parent or guardian of a minor child arrested on a criminal charge when the parent or guardian was present during a communication between the child and his or her attorney. There are 21 states and the District of Columbia that explicitly include a Christian Science practitioner within the definition of clergy and afford them the sacred communication privilege.

Summary of Bill: The testimonial privilege for confessions made to clergy is explicitly extended to sacred confidences made to a Christian Science practitioner in his or her professional role. The privilege only applies for sacred confidences made to a Christian Science practitioner who is officially listed in the Christian Science Journal, the monthly magazine of the Christian Science church.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is the same as the version that passed out of the Senate Judiciary committee. It is really a bill for religious freedom. These confidences should be protected from disclosure in a court of law. That protection will promote healing. These confidences are analogous to confessions made to clergy and should therefore enjoy the same testimonial privilege. If a patient feels safe to disclose, that feeling of security will help healing. It also helps promote trust and candor. There is concern that the possibility of forced disclosure could discourage people from seeking the help of a practitioner. The assurance of protection from disclosure will be of great value to anyone seeking spiritual healing.

Persons Testifying: PRO: Representative Goodman, prime sponsor; Bill Scott, Christian Science Committee on Publication for Washington State; Dottie Lahuta, citizen.